DEPARTMENT OF REGULATORY AGENCIES

Division of Insurance

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LIFE, ACCIDENT AND HEALTH

Amended Regulation 4-6-7

CONCERNING PREMIUM RATE SETTING FOR SMALL GROUP HEALTH PLANS

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Section 1 Authority

This regulation is promulgated under the authority of §§10-1-109(1), 10-16-102(10)(b)(II), 10-16-104.9, 10-16-105(6.5), 10-16-105(7.2), 10-16-105(8)(f), 10-16-105(8.5) and 10-16-109, C.R.S.

Section 2 Scope and Purpose

The purpose of this regulation is to establish and implement rules for setting premiums for small group health benefit plans. This regulation concerns: applicability and scope of Colorado's small group health rating laws; carriers' obligations to provide coverage; premium rate setting; use of composite rates; rate filings; and actuarial certifications.

Section 3 Applicability

This regulation shall apply to all small group carriers and health benefit plans subject to the small group laws of Colorado.

Section 4 Definitions

A. "Filed rate" means the Index Rate as adjusted for plan design and the case characteristics of age, geographic location, and family size only. The "filed rate" does not include the Index Rate as further adjusted for any other case characteristic (See Section 5(A)(3) of this regulation).

B. "Metropolitan statistical area (MSA)" is a relatively freestanding area of the state determined by one or more large population nuclei, together with adjacent communities, that have a high degree of economic and social integration with the nuclei. Each MSA is not closely associated with another MSA. An MSA is a statistical standard developed for use by the Federal Office of Management and Budget, following a set of officially published standards, including, but not limited to, the acceptable underlying population base.

C. "Premium rate," "rate" and "premium" mean all moneys paid by a small employer and eligible employees as a condition of receiving coverage from a carrier, including any fees or other contributions associated with obtaining or administering the health benefit plan.

D. “Primary metropolitan statistical area (PMSA)” is a possible subcategory of an MSA, which has a million or more persons living in that MSA. The PMSA consists of a large urbanized county or cluster of counties that demonstrate very strong internal economic and social links, in addition to close ties, to other portions of the larger area. Each PMSA is also determined by the Federal Office of Management and Budget following a set of officially published standards, including, but not limited to, the acceptable underlying population base.

E. "Qualified actuary" means an actuary who meets the requirements of Colorado Insurance Regulation 1-1-1.

F. “Renewed." A health benefit plan is deemed renewed upon the occurrence of the earliest of: the anniversary date of issue; or the date on which premium rates can be or are changed according to the terms of the plan; or the date on which benefits can be or are changed according to the terms of the plan.

G. “Wellness and prevention program” for the purposes of this regulation, shall have the same meaning as provided under § 10-16-136(7)(b), C.R.S.

Section 5 Premium Rate Setting

A. Calculating Premium Rates Adjusted for Case Characteristics

1. Index Rate - Each carrier offering a health benefit plan to groups in Colorado shall develop a single index rate for all small group plans it offers. This single index rate is identical to a community rate for the company’s universe of small group plans offered for new issue or renewal. It should be calculated using the experience for all small group plans. The premium rate charged during a rating period, applicable to all small employers, shall be based upon this index rate, adjusted for case characteristics and coverage as allowed in this Section 5.

2. Plan Design Adjustment - The Index Rate may be adjusted to reflect differences attributable to different plan designs. If the small employer carrier elects to make this adjustment, the small employer carrier should calculate a rate adjustment factor for each small group plan design. Differences in the rates for different benefit plans, for persons with the same case characteristics of age, geographic location and family size, shall be attributable to plan design only. Using this methodology, a carrier's rates for a plan with richer benefits than the Colorado Standard Health Benefit Plan should be higher than the rates for its Colorado Standard Health Benefit Plan, and a carrier's rates for a plan with leaner benefits than the Colorado Standard Health Benefit Plan should be lower than the rates for its Colorado Standard Health Benefit Plan.

3. Acceptable Case Characteristic Factor Categories - For all small employer policies carriers choosing to modify the unique index rate by the use of case characteristics must utilize one or more of the categories listed below. Carriers shall develop a rating factor for each category, which is actuarially based.

a. Age - if a carrier uses age to calculate rates, then it shall use the following 12 mandatory age categories. Rates must be based on employee age only, not employee and spouse ages.

Mandatory Age Categories
Children ages newborn through age 19 (or through age 24 if the child is a full-time student covered as a dependent), excluding emancipated minors
Emancipated minors and persons ages 20 through 24
Age 25 through 29
Age 30 through 34
Age 35 through 39
Age 40 through 44
Age 45 through 49
Age 50 through 54
Age 55 through 59
Age 60 through 64
Age 65 and older: Medicare is primary payer
Age 65 and older: Medicare is secondary payer

b. Geographic Location - if a carrier uses geographic location to calculate rates, then it shall use the 9 mandatory categories listed below. In determining that these geographic location categories best serve the public interest, the commissioner considered the key issues of accessibility, availability, consumer choice and the cost of health care in all areas of the state. Public and consumer input was solicited, received, and evaluated. The commissioner determined that these area groupings best serve the public interest by maximizing consumer choice options and health care availability in all areas of the state at the lowest possible cost and will ensure that the rates charged are not excessive, inadequate or unfairly discriminatory. The appropriate population base for these categories is the base as determined by the federal government in establishing MSAs, except for the last two categories listed below. No MSA exists for these counties and consequently these counties were grouped by population size. Carriers may, with the prior written approval of the commissioner, establish one or more additional categories by further subdividing the last two categories.

Rates must be based on the primary physical location of the small employer's business, except that an employer with multiple business locations in separate geographic categories may be provided with separate rates for each physical business location. There cannot be a separate factor for a small employer's out-of-state employees, if any. These individuals shall be rated as if they are working in the small employer's primary physical business location.

Mandatory Geographic Location Categories
Boulder County (known as the Boulder-Longmont PMSA)
Adams, Arapahoe, Broomfield, Denver, Douglas, and Jefferson counties (known as the Denver MSA)
Weld County (known as the Greeley PMSA)
El Paso County (known as the Colorado Springs MSA)
Larimer County (known as the Fort Collins-Loveland MSA)
Mesa County (known as the Grand Junction MSA)
Pueblo County (known as the Pueblo MSA)

Counties in Colorado with a population of 20,000 or fewer residents: Alamosa, Archuleta, Baca, Bent, Chaffee, Cheyenne, Clear Creek, Conejos, Costilla, Crowley, Custer, Dolores, Gilpin, Grand, Gunnison, Hinsdale, Huerfano, Jackson, Kiowa, Kit Carson, Lake, Las Animas, Lincoln, Mineral, Moffat, Otero, Ouray, Park, Phillips, Pitkin, Prowers, Rio Blanco, Rio Grande, Saguache, San Juan, San Miguel, Sedgwick, Washington, and Yuma counties. (Such counties may be grouped into one or more geographic location categories based on differences in medical costs of the carrier with the prior written approval of the Commissioner.)
All other Colorado counties: Delta, Eagle, Elbert, Fremont, Garfield, La Plata, Logan, Montezuma, Montrose, Morgan, Routt, Summit, and Teller counties. (Such counties may be grouped into one or more geographic location categories based on differences in medical costs of the carrier with the prior written approval of the Commissioner.)

PMSA = Primary Metropolitan Statistical Area
MSA = Metropolitan Statistical Area

(1) Geographic rating factors must be determined on the same basis, reflect the relative differences in expected costs, and produce rates that are not excessive, inadequate, or unfairly discriminatory in such geographic areas. For example, a geographic factor of 1.2 for the Colorado Springs MSA and a factor of 1.0 for the Denver MSA would imply that costs can reasonably be expected to be 20% higher in the Colorado Springs MSA than they are in the Denver MSA. All changes in the geographic rating factors must be supported on this basis.

(2) Approval to subdivide categories eight and nine above into two or more subcategories must be obtained in advance. The material provided to support the subdivision(s) shall be based upon statistically-credible data using the Division of Insurance's credibility standard and/or other actuarially-determined standards. The Division's credibility standard is 2,000 life-years and 2,000 claims per year. (See Section 6(M) of Amended Colorado Insurance Regulation 4-2-11).

c. Family Size - if a carrier uses family size to calculate rates, then it shall use the 4 mandatory categories listed below. If age is also used as a rating factor, rates must be based on employee age only, not employee and spouse ages.

Mandatory Family Size Categories
1 adult
2 adults
1 adult plus any number of children who are dependents of the primary insured or for whom the primary insured is legally required to provide health insurance coverage.
2 adults plus any number of children who are dependents of the primary insured or for whom the primary insured is legally required to provide health insurance coverage.

d. Tobacco Use – If a carrier reflects tobacco usage in the calculation of rates, then it shall do so according to the following requirements:

(1) The carrier shall provide a wellness and prevention program;

(2) Any individual who participates in the program shall be given the lower rate;

(3) Any rate adjustment attributable to an individual (and all similarly situated individuals) based upon tobacco usage shall be applied to that individual

(and all similarly situated individuals), and shall not be distributed to the entire group; and,

(4) The carrier shall use one of the following three allowable rate adjustments:

(a) An increase of up to fifteen percent (15%) for tobacco use, pursuant to § 10-16-105(8.5)(a)(I)(B), C.R.S.;

(b) A decrease of up to fifteen percent (15%) for nonuse of tobacco, pursuant to § 10-16-105(8.5)(a)(I)(B), C.R.S.; or,

(c) A discount of up to ten percent (10%) for refraining from smoking for more than twelve (12) consecutive months prior to the effective date or renewal date of the small group policy, pursuant to § 10-16-105(13)(c), C.R.S.

e. Standard Industrial Classifications – If the carrier uses the standard industrial classifications to calculate rates, only one factor is permitted for each small group. No enrolled employee should be charged directly for any such adjustment.

f. All rating adjustments due to the application of any of these case characteristics must be applied consistently in the calculation of all small employers' rates. Any adjustments made due to standard industrial classification should be applied uniformly to the rates charged for all employees enrolled under each small group policy.

g. All rate filings must contain adequate and acceptable detail information as to how each of the rating factors used for tobacco use and standard industrial classification is determined and the combined maximum and minimum effect of applying these rating factors.

h. Health status and claims experience may not be used as case characteristics. A health questionnaire, requesting reasonable information, may be used to obtain information about the health status of group enrollees. However, the health questionnaire may not be used in any way to determine the premium rate or any rating factor that is used in the determination of the premium rate that is charged to the group, except as provided in Subparagraph (d) of this paragraph.

4. Limits on Certain Case Characteristic Adjustments - For all small group health benefit plans issued or renewed for a small employer on or after January 1, 2008, rating adjustments based on standard industrial classification shall not result in a rate that deviates from the carrier's filed rate by more than a ten percent (10%) increase or a twenty-five percent (25%) decrease.

5. Limits on Renewal Rates – A small employer carrier may make an upward adjustment to a small employer's renewal premium not to exceed fifteen percent annually due to standard industrial classification or tobacco use. The final rate is subject to the limits on rating adjustments specified under Section 5(A)(4) of this regulation.

6. Additional Premium Adjustments – Small employer groups may be subject to premium adjustment for health status of no more than 35% above the modified community rate, for a period of no more than twelve months, in certain instances. (See §10-16-105 (13)(a)(I) and §10-16-105(14)(a), C.R.S.) Adequate and acceptable detail information as to how

the carrier determines the rating factor(s) for this adjustment should be included in each rate filing.

7. Wellness and Prevention Programs – A small employer carrier may make available wellness and prevention programs as provided for under Section 7B of Colorado Insurance Regulation 4-2-11.

B. Rating Period

The rating period for all small group health plans shall be twelve (12) months unless:

1. A small employer carrier specifies in its rate filings a different rating period, which shall be the same for all its small group health benefit plans issued or renewed in the same calendar month, pursuant to §10-16-105(8)(c)(II), C.R.S.; and

2. The small employer carrier clearly discloses in all its small employer solicitation and sales materials exactly what the different rating period is, pursuant to §10-16-105(5)(b), C.R.S.

C. Administrative and Other Fees

Carriers and producers shall not charge any fees in addition to premium, except for amounts charged as necessary to recoup assessments paid for CoverColorado. Separate administrative, processing, renewal, enrollment, and other special charges are prohibited. Such charges must be built into the index rate and are not an allowable rate adjustment factor. Reasonable late payment penalties may be imposed by a small group carrier if the policy discloses the carrier's right to, the amount of, and circumstances under which late payment penalties will be imposed.

Section 6 Use of Composite Rates

A. Small employer carriers may offer the small employer rates calculated by use of the following methods subject to the following restrictions:

1. Four-tier family, age-banded rates calculated pursuant to Section 5 of this regulation; OR

2. A choice between four-tier, age-banded rates, calculated pursuant to Section 5 of this regulation, and composite rates. It shall be construed that the small employer carrier has offered the small employer a choice between the two methods if, at initial application and at each renewal:

a. Both methods are offered to the small employer, with the differences clearly explained in writing; OR

b. The small employer is given a written option to indicate that: 1) both rating methods need be presented; or 2) only age-banded rates need be presented; or 3) only the composite rate need be presented. This indication may be a check-off on the application or renewal form or other similar form that complies with this section.

B. Small employer carriers may offer small employers composite rates as an alternative to four-tier, age-banded rates calculated pursuant to Section 5 of this regulation if all of the following conditions are met:

1. The small employer carrier makes the same offer across its entire book of Colorado small group business where an employer has ten (10) or more eligible employees. If the small employer carrier makes this offer to all small employers having ten (10) or more eligible

employees, then the small employer carrier may also offer composite rates to small employers having fewer than ten (10) eligible employees. The small employer carrier must establish a pre-determined minimum size for offering composite rates. The same offer must be made available to all small employers having at least this pre-determined number of eligible employees.

2. The small employer carrier must clearly state on its application and renewal forms for all of its small group products the differences between age-banded and composite rates and that either:

   a. The minimum number of eligible employees for calculating composite rates is ten (10) and that all small employers with ten (10) or more eligible employees are entitled to a choice of composite rates or four-tier family, age-banded rates, and have the right to see them calculated either or both ways; OR

   b. If the number of minimum eligible employees is less than ten (10), the small employer carrier shall state the minimum number and that all small employers with at least this minimum number of eligible employees are entitled to a choice of composite rates or four-tier, age-banded rates, and have the right to see them calculated either or both ways.

3. Calculating Composite Rates:

   a. New Policies - At the time of the initial application by the small employer, composite rates must be calculated separately for each small employer, based upon the small employer's actual enrollment as of the effective date.

   b. Renewing Groups - At renewal, composite rates must be calculated for each small employer group based on enrollment as of the date of the renewal calculation, or as of the effective date for the renewal rates, which shall be consistent for all small employers. A second quote, subsequent to the date of the renewal calculation, may be calculated IF the demographics of the small group have changed significantly since the date of the original renewal quote, and the carrier recalculates the composite rates in all similar circumstances. If the carrier retains the right to revise the original calculation, this right must be clearly disclosed. Despite changes in the demographic composition of the small employer group, composite rates shall be set, as of the renewal date, for a particular small employer for the entire rating period.

4. The small employer carrier uses the same composite rating methodology for all small employers. The small employer carrier may offer composite rates on a two tier (i.e. employee and employee plus dependents), three tier or four tier composition basis. If the small employer carrier elects to offer these three choices, it is at the employer's sole discretion whether the composite rates are set on the two-tier, three-tier, or four-tier family composition basis. However, the basis for the calculation of initial premiums before composite rating for a particular employer must be based on four-tier family, age-banded rates calculated pursuant to Section 5 of this regulation.

5. At the time of the initial application by the small employer, the composite rating and four-tier family, age-banded rating for a particular small employer must result in identical total premium collections due from that employer for the first month of the rating period. At renewal, the composite rating method and four-tier family, age-banded rating methods for each small employer must result in identical total premium amounts as of the date of the renewal calculation. Assuming there is no change in the demographic composition of the small employer group, composite rating and four-tier family, age-banded rating for a

particular employer must result in identical total premium collections due from that employer for a given rating period.

C. Nothing in this section shall be construed to require carriers to provide other than four-tiered, age-banded rates.

Section 7 Rate Filings and Actuarial Certification

A. The provisions of §§10-16-105(6), 10-16-105(6.5) and 10-16-107, C.R.S., and Colorado Insurance Regulation 4-2-11 shall apply to the filing of rates for small employer health benefit plans. Expected rate increases for small employer health benefit plans shall be submitted for approval to the Division of Insurance at least 60 days prior to the proposed implementation of the rates.

B. Small employer health benefit plan rate filings shall not be combined with either individual or large group rates. Additionally, they shall be filed separately by type of coverage (indemnity, preferred provider organization, or health maintenance organization).

C. Pursuant to §10-16-105(6.5), C.R.S., all carriers who sell, or offer for sale, policies subject to the requirements of this regulation, must submit an annual actuarial rate certification to the Division of Insurance prior to March 1 of each calendar year. Note - this certification may be combined with the Company's Annual Rate Report. (See Section 8 of Amended Colorado Insurance Regulation 4-2-11.) Certifications shall be sent to the Colorado Division of Insurance, Attention: Rates and Forms Section. The certification must be signed by a qualified actuary and must contain at least the following:

1. The name of the carrier and the identification number assigned by the National Association of Insurance Commissioners;

2. A list of all plans of health benefits and policy forms to which the certification applies;

3. A statement that covers at least the points listed in the following illustration:

   "I am familiar with the small group rating laws and regulations of the state of Colorado. In my opinion, as of January 1 of the year of this certification, the premium rates and rating methodology to which this certification applies are neither excessive, inadequate nor unfairly discriminatory, and they meet the requirements of the insurance laws and regulations of Colorado;"

4. The name and title of the qualified actuary signing the certification, and the name of the firm with which he or she is associated; and

5. The original signature of the qualified actuary and the date of the signature. Signature stamps or signatures on behalf of the actuary are not acceptable.

Section 8 Enforcement

Noncompliance with this regulation may result, after notice and opportunity for hearing, in the imposition of any of the sanctions made available in the Colorado statutes pertaining to the business of insurance or other laws which include the imposition of fines and/or suspension or revocation of license.

Section 9 Severability

If any provision of this regulation or the application thereof to any other person or circumstance is for any reason held to be invalid, the remainder of the regulation shall not be affected thereby.

Section 10 Effective Date

This regulation is amended effective January 1, 2011.

Section 11 History

Emergency Regulation 94-E-4; Effective October 20, 1994.
Emergency Regulation 95-E-2; Effective January 20, 1995.
Hearing date: December 8, 1994; Effective March 1, 1995.
Hearing date: April 2, 1998; Effective June 1, 1998, Amended Sections 2, 3, 4, 5, 6, 7 & 10.
Hearing date: October 2, 2000; Effective January 1, 2001, Amended Sections 5 & 6.
Hearing date: September 4, 2002; Effective January 1, 2003.
Hearing date: February 4, 2003; Effective March 31, 2003, Amended Sections 1, 5, 10 & 11.
Emergency Regulation 03-E-6, Effective September 1, 2003.
Hearing date: October 1, 2003; Effective December 1, 2003, Amended Sections 4, 5, 6, 7, 10 11.
Hearing date: February 2, 2004; Effective April 1, 2004, Amended Sections 5, 10, & 11.
Hearing date: August 4, 2004; Effective September 30, 2004.
Hearing date: October 10, 2007; Effective January 1, 2008, Amended Sections 5, 7, 10, & 11.
Hearing date: August 5, 2008; Effective October 1, 2008, Amended Sections 5, 7, 10 & 11.
Emergency Regulation 08-E-10, Effective January 1, 2009.
Hearing date: December 9, 2008; Effective February 1, 2009, Amended Sections 5, 10 & 11.
Amended Regulation 4-6-7, Effective January 1, 2011.